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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,482	05/15/2001	Herbert Morewitz II	VBMOREWITZ2	9603

7590 07/09/2004
PETER J. VAN BERGEN, ESQ.
402 West Duke of Gloucester St.
Williamsburg, VA 23185

EXAMINER

LE, LANA N

ART UNIT	PAPER NUMBER
2685	

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,482

Applicant(s)

MOREWITZ ET AL.

Examiner

Lana N Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because it is too long. The maximum for abstract length is now limited to 150 words. Correction is required. See MPEP § 608.01(b).

Double Patenting

Claims 1 and 13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,457,815. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims contain analogous claimed subject matter.

Regarding claim 1, Morewitz, II (US 5,457,815) discloses a broadcast audio receiver system, comprising:

a pair of receiver, each pair of the plurality of pairs receiving broadcasts on a unique broadcast band defined by a broadcast signal that is one of an analog audio signal or a digital audio signal (claim 1, lines 27-33);

input controls for receiving, from a user, a selected frequency on a selected broadcast band and search criteria (claim 1, lines 23-26);

an audio output device (claim 7, lines 1-2);

control means (claim 1, line 38) coupled to the receivers, the input controls and the audio output device for:

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i) tuning one of the receivers to the selected frequency (claim 1, lines 23-25),

ii) coupling the one of the receivers to the audio output device wherein all others of the receivers are not coupled to the audio output device as a means to identify one of the plurality of broadcast frequencies (claim 1, lines 53-56);

iii) scanning the broadcast band associated with each of the all others of the receiver (claim 1, lines 31-33);

iv) comparing the character representation of the broadcast signal with the search criteria for each of the all others of the receivers (claim 1, lines 41-44);

v) generating a match signal when the search criteria is present in the character representation for one receiver from the all others of the receivers to thereby define a match frequency on a match broadcast band where the search criteria is present (claim 1, lines 45-52);

means, coupled to the control means, for generating an announcement (by identifying means by an audio system; claim 7) in response to the match signal; the input controls further being capable of receiving a match select signal from the user (claim 1, lines 53-56); and

the control means, in response to the match select signal, switching one of the receivers to a designated one of the receivers capable of receiving the match frequency on the match broadcast band wherein the one of the receivers assumes a function that is the same as the all others of the receivers (claim 1, line 65 - col 7, line 1) .

Morewitz II didn't specifically disclose:

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a plurality of pairs of receivers; a decoder coupled to each of the receivers for converting each the broadcast signal to a character representation thereof; and decoupling one of the receivers from the audio output device and coupling one of the receivers capable of receiving the match frequency to another audio device. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a plurality of pairs of receivers in order to have a more than one pair of receivers operating simultaneously to receive multiple signals, each on a different broadcast band and a decoder to convert the incoming signals to a form recognizable by the next receiving block; and decoupling and coupling one of the receivers with a matching frequency to an audio device in order to allow the user to hear his/her selected frequency.

Claims 3 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 5,457,815 respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims contain analogous claimed subject matter.

Regarding claim 13, Morewitz II disclose an audio processing method for a broadcast audio receiver system having a pairs of receivers, each pair of which receives broadcasts on a unique broadcast band defined by a broadcast signal that is one of an analog audio signal or a digital audio signal that can be reproduced by an audio output device (col 7, lines 46-49),

said method comprising the steps of:

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tuning one of said receivers to a user selected frequency; coupling said broadcast signal associated with said one of said receivers to said audio output device wherein all others of said receivers are not coupled to said audio output device;

scanning said broadcast band associated with each of said all others of said receivers (col 8, lines 1-4);

comparing said character representation of said broadcast signal with said search criteria for each of said all others of said receivers; generating a match signal. when said search criteria is present in said character representation for one receiver from said all others of said receivers to thereby define a match frequency on a match broadcast band where said search criteria is present; announcing the generation of said match signal; receiving a match select signal from the user (col 8, lines 7-11); and switching said one of said receivers from said broadcast frequency in response to said match select signal; coupling a designated one of said receivers capable of receiving said match frequency on said match broadcast band to in response to said match select signal; and performing said steps of scanning and comparing for said one of said receivers so-uncoupled (see claim 9).

Morewitz II didn't specifically disclose:

a plurality of pairs of receivers; converting each the broadcast signal to a character representation thereof; and decoupling one of the receivers from the

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audio output device and coupling one of the receivers capable of receiving the match frequency to another audio device.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a plurality of pairs of receivers in order to have a more than one pair of receivers operating simultaneously to receive multiple signals, each on a different broadcast band and a decoder to convert the incoming signals to a form recognizable by the next receiving block; and decoupling and coupling one of the receivers with a matching frequency to an audio device in order to allow the user to hear his/her selected frequency.

Allowable Subject Matter

1. The following is an examiner's statement of reasons for allowance:

Regarding claim 7, Morewitz II disclose a broadcast audio receiver system, comprising:

a pair of receiver, each pair of the plurality of pairs receiving broadcasts on a unique broadcast band defined by a broadcast signal that is one of an analog audio signal or a digital audio signal (claim 1, lines 27-33);

input controls for receiving, from a user, a selected frequency on a selected broadcast band and search criteria (claim 1, lines 23-26);

an audio output device (claim 7, lines 1-2)

Morewitz II didn't specifically disclose:

a plurality of pairs of receivers; a decoder coupled to each of the receivers for converting each the broadcast signal to a character representation thereof; and

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decoupling one of the receivers from the audio output device and coupling one of the receivers capable of receiving the match frequency to another audio device.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a plurality of pairs of receivers in order to have a more than one pair of receivers operating simultaneously to receive multiple signals, each on a different broadcast band and a decoder to convert the incoming signals to a form recognizable by the next receiving block; and decoupling and coupling one of the receivers with a matching frequency to an audio device in order to allow the user to hear his/her selected frequency.

However, the cited prior art fails to further disclose:

foreground control means for coupling one of said receivers capable of receiving said selected frequency to said audio output device wherein said broadcast signal associated therewith is audible and wherein said broadcast signal associated with each of all others of said receivers is not audible;

background control means having operational control over said all others of said receivers such that each said broadcast band associated therewith is examined to determine whether said search criteria is present in said character representation, and for generating a match signal when said search criteria is present in said character representation for one receiver from said all others of said receivers to thereby define a match frequency on a match broadcast band where said search criteria is present;

means, coupled to said background control means, for generating an announcement in response to said match signal; said input controls further being

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capable of receiving a match select signal from the user; said foreground control means, in response to said match select signal, uncoupling said one of said receivers from said audio output device and coupling a designated one of said receivers capable of receiving said match frequency on said match broadcast band to said audio output device; and said background control means assuming said operational control over said one of said receivers uncoupled from said audio output device.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lana N Le whose telephone number is (703) 308-5836. The examiner can normally be reached on M-F 10-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F Urban can be reached on (703) 305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Lana Le', with a stylized flourish at the end.

Lana Le

June 21, 2004